

# **SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD**

## **EXECUTIVE OFFICER'S REPORT**

**November 13, 2002**

### **PART A**

#### **SAN DIEGO REGION STAFF ACTIVITIES** *(Staff Contact)*

1. Southern California Wetlands Recovery Project Symposium *(Bruce Posthumus)*

SDRWQCB staffers John Robertus, Linda Pardy, and Bruce Posthumus attended the third annual symposium of the Southern California Wetlands Recovery Project in Ventura on October 16 - 18. The Southern California Wetlands Recovery Project is a partnership of sixteen federal and state agencies, including the SDRWQCB, working cooperatively with local governments, businesses, and non-profit organizations to acquire, restore, and enhance coastal wetlands and watersheds in southern California (see <http://www.coastalconservancy.ca.gov/scwrp/index.html>). Almost 300 people attended the symposium. There were nine breakout sessions on a variety of topics, including community restoration projects, historical ecology of southern California, land use decision making to protect rivers and streams (with an emphasis on the importance of imperviousness), and wetland and watershed education. John Robertus moderated the session on "Wetlands for Water Treatment and Wildlife Habitat – Balancing the Functions." At another session, Bruce Posthumus made a presentation entitled "A 'Regulatory Agency' Response to a Significant Threat," which described the SDRWQCB participation in the Southern California *Caulerpa* Action Team (SCCAT) and the response of the SDRWQCB and SCCAT to infestations of the non-native seaweed *Caulerpa taxifolia* in southern California. The presentation used SCCAT as an example of cooperative partnerships between government agencies, businesses, and non-profit organizations. A poster about *Caulerpa taxifolia*, which was prepared by SDRWQCB staffers Chiara Clemente and Lesley Dobalian, was on display throughout the symposium. The recipients of the 2002 Greig Peters Wetlands Recovery Awards, named in honor of the former SDRWQCB environmental scientist, were announced at the symposium.

2. Expanding Your Horizons (EYH) Conference *(Whitney Ghoram)*

Regional Board staff, Jody Ebsen, Engineering Geologist, and Whitney Ghoram, Sanitary Engineering Associate, participated in the *Expanding Your Horizons Conference* held at University of California San Diego on October 12, 2002. Your staff participated on the Career Options Panel consisting of eight women of various professions at the EYH Conference for young women in high school and their parents.

A consortium of San Diego Women's organizations, in conjunction with the University of California, San Diego (UCSD), conducted the Expanding Your Horizons (EYH) Conference at UCSD. EYH Conferences are licensed and coordinated by the Math/Science Network. EYH Conferences have been attended by more than 500,000

young women since 1976. The primary goal is to increase the participation, retention, and advancement of young women in mathematics, science, engineering, and technology.

The EYH conference instills enthusiasm for science and technology and shows the participants that women have both the capability and the right to take an equal place in the science professions. Conference activities encourage middle and high school age young women in San Diego and Imperial Counties to pursue careers in math, science and engineering. The conference makes these students aware of the wide variety of career opportunities in these fields, provides female role models, and highlights the importance of taking classes in these areas at the secondary school level.

The areas of concern for the participants were: college education funding resources, mentoring programs, gender pay equity, Jr. college vs. four year college for entry into higher education, and undergraduate vs. graduate degrees.

The conference was sponsored by: UCSD, Dow Corporation, US Dept. of Labor, General Atomics, Qualcomm, SDG&E, Cubic Corporation, Nokia, Sony Corporation, TRW, and WD-40 Company.

### 3. California and the World Ocean '02 Conference (*Bruce Posthumus*)

SDRWQCB staffers Lesley Dobalian, Chiara Clemente, Christina Arias, Lisa Brown, and Bruce Posthumus attended the California and the World Ocean '02 conference in Santa Barbara on October 27-30. The conference was organized by the California Environmental Protection Agency, the California Resources Agency, and the Coastal Zone Foundation (see [http://resources.ca.gov/ocean/CWO\\_02/](http://resources.ca.gov/ocean/CWO_02/)). More than 900 people attended the conference. There were fifty breakout sessions on a variety of topics, including education, environmental toxins, watershed management, water quality, monitoring, indicators, and habitat and ecosystem management. At a session on "Invasive Species: Early Detection and Rapid Response," Bruce Posthumus made a presentation entitled "The Invasive Non-Native Marine Alga, *Caulerpa taxifolia*, in Southern California," which provided an overview of the history of and program for management of *Caulerpa taxifolia* in southern California. A poster about *Caulerpa taxifolia*, which was prepared by SDRWQCB staffers Chiara Clemente and Lesley Dobalian, was on display at the conference poster session.

Among other things, the conference was a celebration of the 30th anniversary of both the Clean Water Act and the Coastal Zone Management Act and served as a reminder that much work remains to be done to ensure that California waters are "fishable and swimmable." A recurring theme in a number of the breakout sessions was the importance of protecting watersheds (e.g., land, streams, rivers, wetlands, estuaries, and lagoons), not only for their own sake, but also in order to protect the ocean. Other themes included the statewide application of beach water quality standards to protect recreational users, beach valuation and the importance of beaches to local economies, the use of modeling and data management to understand ocean systems, the increasing role of public education and outreach, and the importance of the citizen's role in influencing public policy. The

conference also served as a reminder of how lifestyle and consumer choices and decisions directly and indirectly affect the resources of the ocean and the beneficial uses it provides. One of the most striking impressions provided by the conference has to do with the enormous quantity of plastics accumulating in the north Pacific Ocean, where the mass of floating plastic is now six times greater than the mass of zooplankton. Plastic debris bioconcentrates toxins such as PCB and DDE up to 1,000,000 times their levels in ambient sea water.

4. SWIM Database Update (*Bob Rossi, Shane Landry, and John Odermatt*) (Attachment A-4)

The State Board SWIM coordinator recently sent an email updating the Regional Boards on the status of the SWIM database. That memorandum and attachments are summarized below:

**SWIM's new name - Water Information Network (WIN)**

Our current database system will simply be referred to as SWIM and the new; enterprise database system will be referred to as WIN. This was done at the suggestion of the State Board's Executive Director (Ms. Celeste Cantú) and may be appropriate given the new database is intended to completely replace SWIM and provide significantly enhanced functionality and capability over the current SWIM database system.

**WIN Activity**

The Office of Information Technology (OIT) plans to submit a Special Project Report to request authority to continue the WIN project beginning with FY 03/04. Since July the State Board has investigated a number of alternatives in hopes of building and deploying parts of WIN in the current fiscal year. However, given the current fiscal crisis and budget constraints such projects cannot be pursued.

**SWIM Activity**

Over the next year it is expected that SWIM will be modified making it more available to users through a thin client application. The State Board plans to develop a formal SWIM user manual and conduct training sessions for the Regional Board staff. The State Board is also investigating how the systems developed by US EPA might benefit a number of Water Board core regulatory programs.

**Continuity with WIN design and standards during this "down time" in the project**

Ms. Celeste Cantú recently distributed a management memorandum (attachment A-4) regarding OIT's role in all future information technology (IT) development at the State and Regional Board offices. The State Board plans to use all the existing work on SWIM and SWIM II as the basis for the future development of WIN and all interim systems.

5. Del Mar Country Club Golf Course Workshop (*Mo. Lahsaie*)

On November 5, 2002, Regional Board staff conducted a workshop at the Del Mar Country Club to familiarize golf course superintendents and operators within the San Dieguito Watershed about water quality concerns and our regulatory programs. During the workshop, Mr. Mo. Lahsaie of your staff presented an overview of State programs,

including the Nonpoint Source Program, waste discharge requirements, municipal and construction storm water requirements, and Best Management Practices (BMPs). Staff emphasized pollution prevention, implementation of BMPs, compliance assistance, and enforcement by the Board. Mr. John Robertus and Ms. Stacey Baczkowski of your staff also participated in the workshop. The workshop garnered significant interest from the superintendents of golf courses within this watershed and was attended by 20 people. Staff intends to conduct similar watershed-based workshops for golf courses throughout the region.

## **PART B**

### **SIGNIFICANT REGIONAL WATER QUALITY ISSUES**

1. **Sanitary Sewer Overflows (SSO)** (*Victor Vasquez, Chiara Clemente, David Hanson, Bryan Ott*)  
(Attachment B-1)

In October 2002, there were 36 sanitary sewer overflows from publicly-owned sewage collection systems reported to the Regional Board office; 24 of these spills reached surface waters or storm drains, and two resulted in closure of recreational waters. Of the total number of overflows from public systems, eight were 1,000 gallons or more. Regional Board staff has updated the sewer overflow statistics for each sewer agency by fiscal year since FY 1998-99 in the attached table entitled "Sanitary Sewer Overflow Statistics."

Eight sewage overflows from private property were also reported in October, none were 1,000 gallons or more. Five of the private property spills reached surface waters or storm drains, and one resulted in closure of recreational waters.

A total of 0.04 inches of rainfall was recorded at San Diego's Lindbergh Field in October. For comparison, in September 2002, 0.31 inches of rainfall was recorded, and 35 public SSOs were reported; in October 2001, no rainfall was recorded, and 32 public SSOs were reported.

Five Notices of Violation (NOV), one with a Request for Technical Information (RTI), were issued in October for recent significant overflows. One of these NOV's was issued to a private entity. NOV's were issued to the following:

#### ***City of San Diego***

The City of San Diego reported a 5,250-gallon sanitary sewer overflow, of which 3,000 gallons were recovered, that occurred on June 6, 2002 at Carmel Valley Road and Sorrento Valley Road. The overflow reached Soledad Creek, Los Penasquitos Lagoon, and the Pacific Ocean and resulted in the closure of recreational waters at Torrey Pines State Beach, 300 feet north and south of the Los Penasquitos Lagoon outlet, for 3 days to prevent public contact with affected waters. The overflow was caused by a root blockage in the sewer line.

The City of San Diego reported a 5,900-gallon sanitary sewer overflow, none of which was recovered, that occurred on September 7, 2002 in Tecolote Canyon resulting in a discharge to Tecolote Creek and Mission Bay. The overflow resulted in the closure of recreational waters at Mission Bay near the creek outlet for 11 days to prevent public contact with affected waters. The overflow resulted from a sewer line break.

On September 17, 2002, the City of San Diego (City) notified this office of a 3,176-gallon sanitary sewer overflow that occurred between September 15 and 16, 2002 near 5859 Adobe Falls Road resulting in a discharge to Alvarado Creek, tributary to the San Diego River. The overflow resulted from a manhole failure. Initially, the City reported that all 3,176 gallons were recovered. On September 25, 2002 the City submitted a revised report which stated that only 540 gallons were recovered. On November 30, 2002, the City issued another revised report that estimated the volume released at 1,916 gallons and the volume recovered at 432 gallons. An RTI was issued with the NOV to obtain more information regarding this overflow.

#### ***City of Coronado***

City of Coronado reported a 1,000-gallon sanitary sewer overflow, none recovered, that occurred on June 17, 2002 at 1845 Strand Way, and resulted in a discharge to the Glorietta Bay section of San Diego Bay. The overflow resulted in the closure of recreational waters at Glorietta Bay Park beach to prevent public contact with affected waters. The cause of the overflow was reported as construction-related.

#### ***Shorecliffs Home Owners Association***

The City of San Clemente (City) notified this office of a 2,000-gallon sanitary sewer overflow that occurred on September 4, 2002 at 3000 Calle Nuevo in San Clemente from a private sewer lateral on property managed or operated by Shorecliffs Home Owners Association. A report from the City indicated that the cause of the sanitary sewer overflow was unknown but may have been due to a blockage in the private sewer lateral. The report from the City and a report from the County of Orange Health Care Agency indicated that the overflow entered a storm drain that discharges to the Pacific Ocean. The overflow resulted in the closure of ocean recreational waters adjacent to Poche Beach in San Clemente and Dana Point for four days to prevent public contact with affected waters. City staff has indicated that the homeowners association has been cooperative and is working with the City to prevent future overflows.

#### **County of Orange Health Care Agency letter regarding sewer overflows**

The County of Orange Health Care Agency issued a letter dated November 4, 2002 (copy enclosed) to all cities and sanitary districts within Orange County to address unauthorized discharges of sewage or other wastes. The letter indicates the potential health threats associated with unauthorized sewage discharges (including recycled water) and stresses the need for immediate reporting of these spills to the director of Environmental Health. The letter also mentions a recent increase in private property spills and indicates steps the County is taking to address this issue, including preparation and distribution of a "Sewage Spills Reference Guide."

**Workshop to discuss Order No. 96-04 Prohibition**

The public workshop on sewage overflows requested by Fallbrook Public Utility District (FPUD) has been scheduled for Friday, December 6, 2002, 9:00 a.m. to noon. The workshop will be conducted by a two-member panel of the Regional Board and will be held in the Regional Board Meeting Room. The workshop will provide a forum to discuss Prohibition A.1 of Order No. 96-04, which prohibits all discharges of sewage from a collection system upstream of a wastewater treatment plant. FPUD has petitioned the Regional Board to consider affirmative defenses and provide relief from the prohibition in certain instances.

**2. Clean Water Act Section 401 Water Quality Certification Actions Taken in October 2002** *(Stacey Baczowski)*

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	CERTIFICATION ACTION
10/7/02	Western Pacific Housing	Stonecliffe Gabion Repair	Repair an existing gabion structure in Canada Chiquita Channel and extend the existing gabions 30 linear feet downstream within Thomas E. Riley Wilderness Park.	Conditional
10/7/02	City of San Diego/ Water & Wastewater Facilities Division	Sewer Group 697a	The City of San Diego proposes to replace approximately 662 linear feet of sewer main near G Street and Market Street.	Standard
10/8/02	Keystone Communities	Rock Springs	30 residential lots and attendant features; such as parking, sewer, and utilities on the 7.9-acre site.	Conditional
10/10/02	Sunny Days Properties, LLC	TT No. 29484 at Briggs Road	Residential development on 90.61 acres	Withdrawn
10/11/02	Rancho Santalina LP	Rancho Santalina	Residential development on 70 acres. 65 single-family residential/school and 5 acres 88-unit multifamily residential	Withdrawn
10/18/02	San Diego Gas & Electric	Pole Z 90293 Straightening	This project is to straighten pole z90293 through the installation of several replacement anchors and a pole brace, mud sill and breast block.	Standard
10/22/02	North County Transit District	Oceanside - Escondido Rail Project	Construction of passing track and passenger stations for a commuter rail service.	Conditional
10/24/02	Baile Development Company	Blackmore Property Residential Development	141 single-family homes on 102.9 acres, including 62.9 acres for housing and 29.1 acres for open space.	Conditional

		Project		
10/25/02	DKN Holdings, L.L.C.	DKN Holdings Murrieta Development Storm Drain Improvements	Commercial development and drainage improvements.	Conditional
10/29/02	County of Orange	San Juan Creek Crossing Repair Project	Replacement of rock protection and one ten-foot long cement mortar pipe.	Conditional

Public notification of pending 401 Water Quality Certification applications can be found on our web site at [http://www.swrcb.ca.gov/rwqcb9/Programs/Special\\_Programs/401\\_Certification/401\\_certification.html](http://www.swrcb.ca.gov/rwqcb9/Programs/Special_Programs/401_Certification/401_certification.html).

### 3. Total Maximum Daily Loads (TMDL) for Diazinon and Metals in Chollas Creek

*(James Smith)*

On October 17, 2002, the State Water Resources Control Board (State Board) approved a statewide package of 194 watershed enhancement proposals totaling \$82 million. The money for the grants comes from the Costa-Machado Water Act of 2000 (Proposition 13). The funds are allocated to the following programs: Nonpoint Source Pollution, Watershed Protection and Coastal Nonpoint Source Control.

Through this competitive process, the City of San Diego's Storm Water Pollution Prevention Program was awarded \$2,244,000 from the Nonpoint Source Pollution Grant Program to restore wetlands in the mouth of Chollas Creek. The project will involve the removal of concrete and the planting of natural vegetation. This activity will help to protect and enhance the beneficial uses of the creek beleaguered through years of urbanization and abuse. Improvement of aquatic life habitat is harmonious with the purpose and implementation plans of the two TMDLs for Chollas Creek. The Regional Board approved the TMDL for diazinon in August of 2002 and a TMDL for metals is currently under development. Continued coordination between all stakeholders and related projects will be the only way to ensure successful preservation and enhancement of the quality of our water resources.

### 4. State Board's Directive to Cancel Annual Fees for Federal Facilities *(Mark Alpert)*

In late October 2002, the State Board Division of Administrative Services (DAS) recently notified the Regional Boards of the State Supreme Court denial of the State's request to overturn a lower court ruling that federal agencies are not subject to annual fees for holding Waste Discharge Requirements and National Discharge Elimination System Permits. Subsequently, the State directed each Regional Board to initiate the process to formerly cancel all outstanding fees owed by federal agencies.

The State's records show that, since 1993, uncollected fees from Federal agencies for this Regional Board alone amount to approximately \$300,000. These outstanding fees are attributed to the USMC Camp Pendleton (\$126,300) primarily for the sewage treatment plants, sewage collection system, active and inactive landfills, and a soil treatment facility; the US Army Corps of Engineers (\$121,042), for dredging of the Oceanside Harbor, a Flood Control Project, and the Sweetwater Channel Improvement Project; and

the US Navy (\$52,900) for the Homeporting Project and several other projects at local military facilities. Regional Board staff is currently completing the paperwork necessary to cancel these outstanding fees. Staff will continue to update the Regional Board on the status of collecting fees for this Region.

**5. State Water Board Increases Annual Fees** *(Mark Alpert & Vicente Rodriguez) (Attachment B-5)*

On October 2, the State Water Resources Control Board adopted Resolution 2002-0150, raising annual fees for regulated dischargers for the first time since 1995. The new fee schedule affects all holders of waste discharge requirements (WDRs) and National Pollutant Elimination System (NPDES) permits, enrollees under the industrial and construction stormwater permits, and co-permittees under areawide municipal stormwater permits and applicants for Section 401 water quality certification. The revised fee structure is effective retroactive to July 1, 2002. The increase in the fees will replace a significant portion of the Regional Board budget formerly authorized from the general fund. The full text of the new annual fee schedule is attached and can also be viewed at the Regional Board web site located at: <http://www.swrcb.ca.gov/rwqcb9/>

The State Board's Division of Administrative Services Fee Unit is in midst of sending out invoices based on the new fee schedule for annual fees for WDR, NPDES, and the construction and industrial storm water dischargers. Fees for the most dischargers are summarized below.

<b>Program</b>	<b>Annual Fee</b>	<b>Basis</b>
WDR	\$400 to \$20,000	threat to water quality and complexity rating
Land Disposal	\$1,500 to \$20,000	threat to water quality and complexity rating
Fill	\$2,250/acre not to exceed statutory maximum	
Dredge	\$1,125 to \$4,500 plus \$1,125 for each 5,000 yds up to statutory max	
NPDES	\$1,000 to \$20,000	effluent flow specified in the permit
Municipal Stormwater	\$1,000 to \$20,000	population served by the municipality
Construction and Industrial Stormwater	\$700	

The new fees are an increase of approximately 100% from the previous schedule of fees for most programs. The maximum amount that a discharger is subject to pay in annual fees has increased from \$10,000 to \$20,000. Fees for the NPDES program has been significantly changed from a "Threat to Water Quality" basis to the effluent flow specified in the discharge permit. If there is no effluent flow specified, then the fee will be based on the designed flow of the facility. Consequently, most fees will increase with others decreasing.

While the new fees increase will obviously augment the state budget, staff anticipates an increase in Regional Board workload to respond to dischargers' request to lower their fees. In addition, this increase in fees may also cause more dischargers to become delinquent in paying their fees. Consequently, the Regional Board may need to increase efforts to collecting outstanding fees.

6. Modifications to Mandatory Minimum Penalties – Water Code Section 13385 (*Vicente Rodriguez*)

Since February 2002 the State Legislature has been deliberating modifications to Water Code Section 13385 regarding Mandatory Minimum Penalties with the introduction of two bills into the Assembly (AB1969 and AB2351). The existing water code section establishes that persons who violate effluent limits established in an NPDES permit are liable to receive a mandatory minimum penalty of \$3,000 for serious and chronic violations meeting certain requirements in any period of 6 consecutive months.

In September 2002 the governor signed into law AB1969 and AB 2351.

AB1969, which took effect immediately as an "urgency measure" modified the water code to protect Orange County from liability for violations of the Clean Water Act because the Orange County Sanitation District is working towards achieving secondary treatment; therefore, AB1969 provides Orange County POTWs until 2013 to reach secondary treatment.

AB1969 also has application to the rest of NPDES holders throughout the state and takes effect January 1, 2003. AB1969 incorporates parts of AB 2351 because AB1969 was signed into law the day after AB2351 was signed, therefore, superseding AB2351. The part that AB1969 incorporates from AB2351 amends Water Code Section 13385 by making the following significant changes:

- Authorizes the state board or a regional board, in lieu of assessing the mandatory minimum penalty, to direct a portion of the penalty amount to be expended on a supplemental environmental project (SEP). For penalties less than \$15,000 the entire amount of the penalty may be deferred. If the penalty amount exceeds \$15,000, the portion of the penalty amount that may be deferred to a SEP may not exceed \$15,000 plus 50 percent of the penalty amount that exceeds \$15,000.
- Allows, the Regional Board, to treat a single operational upset in a wastewater treatment unit, that treats wastewater using a biological treatment process, as a single violation for a period not to exceed 30 days if all of the following requirements are met:
  - a) The upset was not caused by wastewater treatment operator error and was not due to discharger negligence.

- b) But for the operational upset of the biological treatment process, the violations would not have occurred nor would they have continued for more than one day.
  - c) The discharger carried out all reasonable and immediately feasible actions to reduce noncompliance with the applicable effluent limitations.
  - d) The discharger is implementing an approved pretreatment program, if so required by federal or state law.
- Make mandatory minimum penalties inapplicable to violations caused by the operation of a new or reconstructed wastewater treatment unit during a defined period of adjusting or testing, not to exceed 90 or 30 days, as applicable, if certain requirements are met.

The full text of the amendment can be viewed at the Regional Board's website located at: [www.swrcb.ca.gov/rwqcb9](http://www.swrcb.ca.gov/rwqcb9)

7. Stormwater Monitoring Coalition Annual Report (*Michael McCann*) (*Attachment B-7*)

The Stormwater Monitoring Coalition (SMC), a workgroup consisting of 11 Southern California agencies, issued an annual report (attached) on the progress made in advancing research in stormwater monitoring. The SMC is comprised of the three Southern California coastal Regional Boards, the So. California Coastal Water Research Project (SCCWRP), and the 7 Phase I Stormwater Municipalities. The annual report documents considerable progress during its first year. This past year the following three major research projects were initiated: 1) Development of Standardized Sampling and Analysis Protocols, 2) Microbial Source Tracking Method Comparison, and 3) Peak Flow Impacts.

The SMC has compiled a prioritized agenda of 15 research projects. The next study effort targeted is bioassessment in inland waters. A final report entitled, "Stormwater Needs in Southern California" can be found on line at [ftp://ftp.sccwrp.org/pub/download/PDFs/358\\_stormwater\\_workplan.pdf](http://ftp.sccwrp.org/pub/download/PDFs/358_stormwater_workplan.pdf)

8. *Caulerpa taxifolia* Eradication and Prevention Activities (*Chiara Clemente, Lesley Dobalian & Bruce Posthumus*) (*Attachment B-8*)

Pursuant to SWRCB Resolution No. 2001-309, SDRWQCB staff completed the quarterly progress report to the SWRCB on *Caulerpa taxifolia* eradication and prevention activities for the period July through September, 2002. A copy of the report is attached. Although the results of eradication efforts thus far are encouraging, unless all *C. taxifolia* is found and successfully treated, the threat of re-growth and spread remains.

9. MTBE Groundwater Well Protection Activities in the Temecula Valley (*Barry Pulver*)

The Tank Site Mitigation and Cleanup Unit (TSMC) of the Regional Board organized and coordinated the efforts of Atlantic Richfield Company [ARCO], Chevron Products Company, ConnocoPhillips, ExxonMobil Oil Company, Narian Oil Company (collectively referred to as Dischargers), and Rancho California Water District (RCWD)

in conducting an aquifer pumping test during October 2002. The purpose of the test was to determine the hydraulic conductivity of the aquifer in the vicinity of Rancho California Water District's (RCWD) Well 118, and to determine if pumping effects from Well 118 could be detected at the Dischargers' stations. In September 2000, the California Department of Health Services ordered that Well 118 be taken out of service due to concentrations of MTBE in excess of the secondary maximum contaminant level (MCL) of 5 micrograms per liter ( $\mu\text{g/l}$ ). The five dischargers are all cleaning up gasoline pollution (including MTBE) in groundwater within a 3,500-foot radius of Well 118.

The aquifer pumping test consisted of pumping Well 118 for 72 consecutive hours at a constant rate of 2,000 gallons per minute. During this time, the Dischargers measured water levels in shallow, intermediate, and deep wells to determine if pumping from Well 118 caused drawdown effects at their respective stations. The information obtained from the aquifer test will allow the Dischargers to design and implement effective cleanup measures to restore the aquifer to drinking water standards. Additionally, test results will help staff and the Dischargers understand the risks posed to Well 118 from fuel leaks at their stations. An immediate benefit of the aquifer test was that it demonstrated to RCWD that Well 118 could be pumped for water supply on a limited basis without drawing MTBE into the well.

TSMC staff organized the efforts of RCWD, the five Dischargers, seven consultants who conducted the work for the Dischargers and RCWD, and HP Laboratories. The planning process began in August 2002 with a meeting at the Regional Board to discuss the aquifer test and continued with other meetings, telephone conference calls, and numerous e-mails.

The Regional Board issued Investigative Order No. R9-2002-0318, pursuant to Water Code section 13267, to the Dischargers to provide a workplan to conduct the aquifer test, to submit a data report, and an aquifer test report to the Regional Board by November 2, 2002, December 2, 2002, and January 17, 2003, respectively. The Dischargers are currently in compliance with the Investigative Order.

10. Mr. Ernest Moretti Compliance/Cleanup Update (*Barry Pulver*)

Since the Regional Board adopted Order No. R9-2002-0053, on September 11, 2002, for administrative assessment of civil liability (ACL) against Mr. Moretti for failure to submit a technical report of a soil and groundwater investigation, Mr. Moretti has shown significant improvement in complying with Regional Board orders. Mr. Moretti has submitted a preliminary site conceptual model, a workplan for additional soil and groundwater investigations, a soil vapor and human health risk assessment, and the Third Quarter 2002 groundwater monitoring report as required by Cleanup and Abatement Order (CAO) No. 99-25 and Addenda 1 and 2.

In addition, free product was recently detected in two of the replacement monitoring wells that were installed pursuant to Addendum No. 1. Mr. Moretti submitted an interim remedial action notification, as required by CAO No. 99-25, and will soon commence

free product removal at his site. This interim remedial action is anticipated to greatly accelerate cleanup activities.

Unfortunately, Mr. Moretti failed to pay the ACL of \$12,384 that was adopted by the Regional Board, and did not submit an electronic copy of the Third Quarter 2002 groundwater monitoring data to Geotracker, as required by State law. A Notice of Violation has been issued for each item. In addition, Regional Board staff is in the process of referring the violation of the ACL order to the State Attorney General for enforcement.

In an unrelated matter, the State of California Board for Geologists and Geophysicists issued, on October 25, 2002, a citation and fine of \$2,000 to Mr. Anderson Donan for the unlicensed practice of geology. Mr. Donan is the Principal Environmental Professional of Donan Environmental Services, the consultant for Mr. Moretti, and has provided testimony to the Regional Board in support of Mr. Moretti. The Regional Board should be aware of this action as it may effect the progress toward site cleanup and future enforcement actions.

11. San Diego Municipal Storm Water Permit Update (*Phil Hammer*)

In October 2002, USEPA and its contractor Tetra Tech, Inc. conducted compliance evaluations of the municipal urban runoff management programs of the City of San Diego and the County of San Diego. These compliance evaluations were conducted with funding provided to the State by USEPA. Regional Board staff participated in the evaluations, which were week-long detailed assessments of each municipality's overall success in meeting the requirements of the San Diego Municipal Storm Water Permit. The evaluations included in-field verification of program implementation, consideration of the overall effectiveness of each program, and identification of exemplary elements of the programs. A report is currently being generated by Tetra Tech, Inc. which will identify potential program violations, program deficiencies, and positive program attributes.

To date, compliance evaluations have been conducted for five of the San Diego Copermittee storm water programs. Regional Board staff is currently following up on the three previously conducted Tetra Tech compliance evaluations to determine if identified program deficiencies and potential violations have been corrected. The City of El Cajon was found to have largely addressed the identified deficiencies at its municipal yard; its other identified program deficiencies will be further assessed in the near future. The City of Chula Vista was found to have addressed the majority of the program deficiencies identified in the compliance evaluation report, with the exception of deficiencies at its municipal yard, for which it was issued a Notice of Violation. The City of Carlsbad is currently being assessed to determine if it has addressed the program deficiencies identified in the compliance evaluation report.

12. Rancho California Water District, Status of Discharge to Murrieta Creek (*Chiara Clemente*) (*Attachment B-12*)

Following the October 9, 2002 adoption of NPDES Order No. R9-2002-0104 and Cease and Desist Order No. R9-2002-0212 (CDO), the Rancho California Water District (RCWD) submitted a letter dated October 16, 2002 (copy attached) notifying this Regional Board of their intent on October 18 to terminate the discharge of treated wastewater to Murrieta Creek. Staff has scheduled a field investigation to verify that the discharge has been terminated. Staff is also considering whether to require temporary ambient monitoring (by RCWD) to evaluate changes to the beneficial uses and water quality resulting from the terminated discharge of treated wastewater.

Staff will notify all interested parties that RCWD has permanently terminated the discharge. In response to RCWD's letter, staff will request verification that the wet weather capacity of the wastewater disposal facilities can retain all reclaimed water and that safeguards will be implemented to prevent a discharge of wastewater to Murrieta Creek.

Once the above measures have been addressed, and RCWD has submitted a formal request for rescission, staff will recommend that the Board rescind NPDES Order No. R9-2002-0104 and CDO No. R9-2002-0212. In the interim, the discharger is required to conduct receiving water monitoring in accordance with Order No. R9-2002-0104 and to submit monitoring reports indicating that there is no discharge to the creek.

13. Construction Storm Water Joint Inspections/Enforcement Efforts (*Benjamin Tobler*)

At the start of the rainy season, Regional Board staff conducted construction inspections in the City of Poway, assessing compliance with the General Construction Permit, Water Quality Order 99-08-DWQ (Construction Permit) and the San Diego Regional Municipal Permit Order No. 2001-01 (Municipal Permit). Enforcement actions were taken against privately owned sites for violations of the Construction Permit. In addition, enforcement action was taken against the City of Poway for lack of compliance with the Municipal Permit at privately owned sites and City of Poway owned Capitol Improvement Projects (CIP) and Redevelopment projects. The following is a brief summary of violations and enforcement actions the Board has initiated.

Heritage Ranch, a privately owned 404-acre development in north east Poway, discharged sediment associated with waterline flushing into a tributary to Lake Hodges; sufficient Best Management Practices (BMPs), as required by the Construction Permit were not present. Regional Board staff are currently working on an appropriate enforcement action. For this site, City of Poway received a Notice of Violation (NOV) and a California Water Code (CWC) section 13267 investigative request for information, for failure to implement the construction component of their Jurisdictional Urban Runoff Management Plan (JURMP). Poway immediately responded by issuing a Stop Work Order to Heritage Ranch, allowing work only to further the implementation of BMPs. Consequently, Heritage Ranch has responded very quickly in its efforts to comply with the requirements of Poway's JURMP.

Lantec's Spyglass, a privately owned development on Pomerado Road in Poway, was also documented as failing to meet the requirements set forth in Poway's JURMP. Due to its small size (less than 5 acres), no enforcement was initiated against this site via the Construction Permit (currently limited to 5+ acre sites). The City of Poway, however, received a NOV/ CWC section 13267 for failure to implement the construction component of their JURMP. Poway immediately responded by issuing a Stop Work Order to the Lantec Spyglass development, allowing work only to further the implementation of BMPs. Consequently, the Lantec Spyglass development responded very quickly and came into compliance with the requirements of Poway's JURMP. Poway has removed the Stop Work Order. Mr. Mehdi Zomorrodian, a principal at Lantec, contacted Regional Board staff stating that he had been discriminated against because he was the only site the City of Poway had issued a Stop Work to.

Inspections were conducted at four City of Poway Capitol Improvement Project (CIP) and Redevelopment construction projects, namely, City Skate Park CIP, City of Poway Parking Lot CIP, Hillside Village Redevelopment and Mossy Nissan Redevelopment. Violations were documented at all but the Parking Lot CIP (not yet under construction) and the three sites cited received individual Notices To Comply (NOC). Poway immediately responded by issuing a Stop Work Order to all three sites, allowing work only to further the implementation of BMPs. Consequently, all three sites responded promptly and came into compliance with the requirements of Poway's JURMP. Poway has subsequently lifted the Stop Work Orders.

Poway has further responded with stringent JURMP enforcement at all of its remaining private and CIP/Redevelopment construction sites. A City directive was issued to all construction sites in Poway requiring compliance with the JURMP in no more than one week, with immediate Stop Work Orders being issued to all sites not meeting this schedule. This resulted in a flurry of Stop Work Orders and, most notably, an unprecedented, swift industry-wide shift to compliance.

Similar enforcement efforts are currently being planned for the remaining Municipal entities in the San Diego Region.

#### 14. Budget Trade and Gas Status of Compliance and Cleanup Progress *(Sue Pease)*

At the May 2002 Board meeting, the Board directed the discharger, Mr. Jimmy Hsu, to make every effort to get the Budget Trade and Gas cleanup into the new Pay for Performance program of the UST Cleanup Fund (USTCF). This program pays dischargers for achieving pollutant concentration reductions rather than for time and materials. The Pay for Performance Program was expected to solve some of Mr. Hsu's cash flow problems and speed up the cleanup. Staff successfully negotiated the preliminary active remediation goals for the condition of payment agreement, and concurred with the proposed alternative cleanup method of soil excavation. Staff requested that a cost estimate for the cleanup be submitted by August 15, 2002. The cost estimate is the foundation from which the discharger and the USTCF negotiate the

condition of payment agreement. Mr. Hsu's consultant requested a one-month extension and we agreed that the cost estimate could be sent in on September 15, 2002.

In the meantime, the USTCF issued a check, in the beginning of August, to Mr. Hsu for \$90,640 in reimbursement funds. The consultant was paid approximately half (\$45,000) of what they were owed on August 23, 2002. On August 27, 2002 the consultant sent a letter to Mr. Hsu and stated they would provide no further services until they were paid in full. Between August 29 and September 15, 2002, Mr. Hsu made several payments to the consultants totaling \$11,000. After September 15, Mr. Hsu attempted to pay the balance of his bill with a credit card (a method he had used for 2 ½ years), however, the consultant refused to accept the credit card for payment. By September 30, Mr. Hsu had paid another \$10,000 by check.

On October 15, 2002, Julie Chan and Sue Pease met with Mr. Hsu to discuss payment issues, to remind Mr. Hsu that compliance deadlines were approaching and inform him he needed to get his consultant back on the job. Mr. Hsu paid his consultant soon after this meeting and the consultant resumed work.

The 3<sup>rd</sup> quarter ground water monitoring report was received by the due date, October 30, 2002. An order for an Enhanced Leak Detection Test was issued, but will be rescinded as the USTCF does not intend to require this test as a prerequisite to negotiating a condition of payment with Mr. Hsu. Addendum No. 4 to Cleanup and Abatement Order No. 2000-255 was issued August 29, 2002, and requires remediation by excavation to begin by January 3, 2003. This addendum was issued due to lack of progress with Pay for Performance because the consultant was off the job from late August through mid-October. The delays in implementing Pay for Performance may also necessitate renegotiation of the preliminary active remediation goals since the goals are based on water quality data that are now out-of-date.

Mr. Hsu and his consultant were instructed to continue with the cost estimate for the condition of payment because the USTCF will still consider this site for the Pay for Performance Program

15. Mission Valley Terminal Status of Compliance (*Kelly Dorsey and Sherrie Komeylyan*)

The Mission Valley Terminal (MVT) dischargers were directed by the Regional Board, pursuant to Water Code section 13308, to submit workplans and reports to comply with Time Schedule Order R9-2002-0042. The dischargers have complied with all task due dates thus far. Currently, the dischargers are expanding their remediation system by installing two additional groundwater extraction wells and are working on plans to expand the soil vapor extraction system.

Additionally, the Regional Board required that the dischargers install leak detection systems on all of the tanks and associated pipelines pursuant to Health and Safety Code section 25270.7 and report the findings to the Regional Board by October 28, 2002. The reports were submitted on time and the leak detection systems found that all tanks and

associated lines that are currently in active use passed the leak detection tests. The remaining untested lines and tanks will be tested as soon as possible after they return to service.

The MVT groundwater treatment system effluent discharges to Murphy Canyon Creek and is regulated by Order No. 2001-96, NPDES NO. CAG919002, General Waste Discharge Requirements For Groundwater Extraction And Similar Waste Discharges From Construction, Remediation, And Permanent Groundwater Extraction Projects To Surface Waters Within The San Diego Region Except For San Diego Bay. During the period from January 2002 through June 2002 the dischargers violated effluent limits mandated in Order No. 2001-96. Complaint No. R9-2002-0205, Administrative Civil Liability with Mandatory Minimum Penalties, was issued to Kinder Morgan Energy Partners on October 24, 2002, alleging seven violations of effluent limits specified in Order No. 2001-96 for an assessed penalty of \$21,000. A public hearing on this matter is tentatively scheduled for December 11, 2002. Kinder Morgan Energy Partners is conducting a toxicity identification evaluation (TIE) study to address the toxicity violations caused by their discharge. If the dischargers cannot dispose of treated groundwater in Murphy Canyon Creek, more expensive disposal alternatives, such as hauling the water in tanks to disposal sites, may become necessary.

On a final note, the Aboveground Storage Tank (AGT) program of the State and Regional Boards was eliminated in its entirety as part of this year's budget and program cuts. The elimination of the AGT program was announced by Celeste Cantú in a memo dated October 4, 2002. As a result, MVT and all AGT cleanup cases were transferred to the Spills, Leaks, Investigation and Cleanup cost recovery program. Statutory language is being drafted to eliminate the legal mandate for the AGT program.

16. General Waste Discharge Requirements for Inactive Nonhazardous Waste Landfills  
(Amy Fortin and John Odermatt)

On October 1, 2002, the Regional Board staff provided copies of the following Tentative Orders for review and comment by interested/affected parties:

Tentative Order R9-2002-0315: "General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Nonhazardous Waste Landfills within the San Diego Region."

Tentative Order R9-2002-0316: "General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Nonhazardous Waste Landfills Containing Insignificant Volumes of Decomposable Wastes within the San Diego Region."

Together, these Tentative Orders constitute a revision of waste discharge requirements (WDRs) for inactive landfill sites currently regulated through General WDRs adopted by Regional Board as Order No. 97-11. The current General Order No. 97-11 identifies two threat to water quality and complexity (TTWQ/CPLX) ratings for different categories of facilities (listed as Attachments 1 and 2 to Order No. 97-11). The State Board invoices

dischargers for an annual fee that corresponds to the applicable TTWQ/CPLX rating. That is one reason the state regulations governing the assessment of annual WDR fees [Title 23, Section 2200(a)(1)(B)] require that all dischargers subject to the same permit shall pay the same fee. Currently, Order No. 97-11 is not consistent with the regulatory standards. Tentative Orders R9-2002-315 and R9-2002-316 will correct the current administrative problems associated including multiple TTWQ/CPLX ratings in Order 97-11.

In addition to the administrative correction identified above, the Regional Board staff recommends some significant changes in the Tentative Orders:

- Together, the orders covers most of the enrollees for municipal solid waste landfills and burn-ash sites currently enrolled in Attachment Nos. 1 and 2 to Order 97-11, and addenda thereto. The only exception is the Mission Bay Landfill currently being reviewed by a Technical Advisory Committee (TAC) convened by the City of San Diego. The Regional Board staff attends the monthly TAC meetings regarding Mission Bay Landfill. The Mission Bay Landfill will continue to be regulated by Order 97-11.
- Tentative Orders R9-2002-0315 and R9-2002-316 require the enrollees/dischargers to conduct a periodic assessment (every 5 years) and submit a technical report on the effectiveness of the existing interim landfill cover system.
- Tentative Orders R9-2002-0315 and R9-2002-316 require the enrollees/dischargers to comply with a Storm Water Pollution Prevention Plan (SWPPP), prepared pursuant to State Board General Order 97-03-DWQ, be updated to include best management practices for effective control of erosion and sediment discharges from the site.
- Tentative Orders R9-2002-0315 and R9-2002-316 require that new construction and maintenance activities comply with the waste discharge requirements in State Board General Order 99-08-DWQ "Waste Discharge Requirements for Discharges of Storm Water Associated with Construction Activity."

The Regional Board staff plans to place these two Tentative Orders on the agenda for consideration by the Regional Board in February 2003.

17. General Waste Discharge Requirements for Disposal and/or Reuse of Petroleum Fuel Contaminated Soils (FCS) in the San Diego Region *(Brian McDaniel and John Odermatt)*

On December 11, 2002, this Regional Board is scheduled to consider adoption of Tentative Order R9-2002-342. The tentative Order would replace the existing Resolution No. 95-63: "Resolution Conditionally Waiving Waste Discharge Requirements for Disposal/Reuse of Waste Soils Contaminated with Petroleum Hydrocarbon Fuels."

Recent amendments to the California Water Code (Section 13269) require that all our existing conditional waivers (including Resolution 95-63) to expire on January 1, 2003.

As a result of our experiences with administering the conditional waiver (i.e., Resolution No. 95-63), the Regional Board staff proposes some significant new requirements in the attached Tentative Order R9-2002-342:

- The Regional Board staff has developed the tentative order as General Waste Discharge Requirements (General WDRs) to replace the existing conditional waiver.
- The tentative order would allow the Regional Board Executive Officer to issue authorization letters to eligible dischargers for coverage under tentative Order R9-2002-342. Dischargers will be notified if they are eligible for coverage under the tentative Order or if they need to apply to the Regional Board for site-specific waste discharge requirements (site-specific WDRs). This process would streamline the enrollment process, as no action at a Regional Board meeting would be required for eligible dischargers to enroll in the proposed General WDRs.
- Tentative Order R9-2002-342 requires the enrollee/discharger to send the Regional Board a completed Fuel Contaminated Soil (FCS) certification and supporting laboratory documentation for each separate source of FCS wastes to be used as inert fill.
- Tentative Order R9-2002-342 requires the enrollee/discharger submit a filing fee of \$1,000 for each separate site proposed to receive FCS wastes for reuse/disposal. The filing fee would become an annual fee for dischargers who are not removed from the Order within the first year after becoming enrolled in the tentative order.
- Tentative Order R9-2002-342 requires the discharger/enrollee submit a technical report to the Regional Board documenting the final disposition of the waste soil at the point of reuse/disposal.
- Tentative Order R9-2002-342 requires that the discharger/enrollee to develop and implement best management practices (BMPs) for effective control of erosion and sediment/waste by storm water discharges from the site. Dischargers/enrollees are also required to comply with the storm water and erosion control requirements of State Board General Order 99-08-DWQ "Waste Discharge Requirements for Discharges of Storm Water Associated with Construction Activity."

If the Regional Board chooses not to adopt Tentative Order No. R9-2002-342 on December 11, 2002, then the affected dischargers would have to apply to the Regional Board site-specific WDRs after the existing waiver (Resolution No. 95-63) expires on January 1, 2003.

18. Mission Bay Landfill (Brian McDaniel and John Odermatt)

On October 25, 2002, the Regional Board staff attended meeting of a technical advisory committee (TAC) convened by City Councilwoman Donna Frye to discuss the status of the Mission Bay Landfill. Members of the public, City of San Diego environmental staff, and Regional Board staff attended the meeting. The Regional Board currently regulates the Mission Bay Landfill under General Waste Discharge Requirements in Order 97-11.

Regional Board staff discussed with the TAC members the relevant current regulatory status and classification of the Mission Bay Landfill. The Regional Board staff suggested amending the title of Order 97-11 to read: "General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Nonhazardous and Hazardous Waste Landfills within the San Diego Region." This wording change would address the concerns expressed by the public members of the TAC regarding a lack of recognition that the Mission Bay Landfill probably received wastes that would be classified as "hazardous" by current regulatory standards. The change of title could be made through an addendum to Order 97-11.

The TAC members approved the wording for a scope of work to complete a re-evaluation of the potential threat(s) posed to public health and/or the environment by the existing conditions at the Mission Bay Landfill. In response, the City will issue a Request for Qualifications (RFQ) for the project. The next meeting of the Mission Bay Technical Advisory Committee (TAC) is scheduled for November 15, 2002.

19. Dixon Dam Landfill (*Amy Fortin and John Odermatt*) (*Attachment B-19*)

On December 7, 2001, the Regional Board Executive Officer issued a written request for the City of Escondido to provide the Regional Board with specific technical information concerning threats to water quality that may be associated with this unpermitted landfill located downgradient from a spillway at the Lake Dixon Reservoir. In 1997, the Lake Dixon reservoir released water down the spillway resulting in a "wash-out event" and significant erosion of the eastern edge of the landfill.

On February 21, 2002, the City of Escondido provided some information to the Regional Board in response to the request issued in December 2001. The Regional Board staff determined the information provided by the City of Escondido did not meet the very specific requirements of the request for information dated December 7, 2001. On August 30, 2002, Regional Board issued Notice of Violation (NOV) No. R9-2002-297 to the City of Escondido for failure to comply with the previous request for information pursuant to Water Code Section 13267. On October 30, 2002, the Regional Board staff met with the City of Escondido and representatives from the County of San Diego Local Enforcement Agency (LEA) to discuss the required investigation of the unauthorized landfill. The City staff verbally agreed to provide the Regional Board with a written commitment and proposed time frame to complete the required investigation of the landfill site. Articles concerning the status of the Dixon Dam Landfill recently appeared in the San Diego Union-Tribune (October 30, 2002) and North County Times (Attachment B-19).

20. Superior Ready Mix Concrete L.P. Mission Gorge Plant--Status of Compliance

**Cleanup & Abatement Order** *(Frank Melbourne and Whitney Ghoram)*

On June 27, 2002 the Regional Board issued Cleanup & Abatement Order (CAO) No. 2002-0141 to Superior Ready Mix, pursuant to California Water Code Section 13304, to address the discharge of rock, sediment, and other waste to the San Diego River. The CAO required that cleanup and abatement activities be completed by November 1, 2002. The November 1 deadline was proposed by the discharger and coincident with the beginning of the rainy season. The CAO also required submittal of an environmental impact assessment report; a pollution prevention plan; and a cleanup and abatement plan by July 16, 2002.

One week prior to the November 1 cleanup date, Superior notified the Regional Board that they would not meet the date and requested a minimum of a 30-day extension on the November 1, 2002 CAO compliance deadline.

On October 31, 2002, Regional Board staff inspected the river channel and verified that cleanup and abatement activities have not been completed. During a November 4, 2002 meeting, Superior informed the Regional Board that CAO cleanup activities will not be completed until early to mid December 2002.

Staff is considering the following:

- a. Denying Superior's request to extend the final compliance date of November 1, 2002 contained in the CAO.
- b. Issuing a Notice of Violation and/or an ACL for violation of the CAO.

Superior Ready Mix owns and operates a rock quarry, aggregate processing plant, and a concrete batch plant along the San Diego River in the Mission Gorge area. Since 1999 mining activities at Superior's quarry have caused discharges of rock and soil (rockfall) into the San Diego River channel. These discharges of rock and soil, covering approximately 600 linear feet in length along the River, pose a threat to the City of San Diego's sanitary sewer line in the riverbed and changes the natural morphology of the San Diego River channel.

**401 Water Quality Certification Violations** *(Mike Porter)*

Superior Ready Mix was issued a Technically-conditioned 401 Water Quality Certification (Certification) on July 29, 2002 (File No. 02C-072), as part of the required removal of an unauthorized deposition of rock and sediment to the San Diego River related to mining activities occurring from December 2001 to January 2002. So much material was deposited that the flow of the river was constricted and the river started flowing over a City of San Diego sanitary sewer trunk line manhole riser; this line carries an average of 19 million gallons per day of raw sewage to the Pt. Loma sewage treatment plant. The rerouted flow over the riser threatened the integrity of the sewer line. The Executive Officer directed removal of the rock and sediment in a Cleanup and Abatement Order issued to Superior Ready Mix.

Condition No. 5 of the Certification required the submission of a mitigation plan by August 30, 2002. Additionally, this mitigation plan submission was required as a technical report pursuant to California Water Code (CWC) section 13267. SRM did not meet that deadline and was issued a Notice of Violation letter on September 9, 2002. The violation was for failure to submit a technical report by the due date pursuant to CWC Section 13267. Pursuant to CWC section 13350, this violation of a certification also makes the party civilly liable.

The Certification required that the mitigation plan contain certain key elements. Several of those elements were missing or were determined to be inadequate. Regional Board staff have met, and will be meeting, with other resource agencies to evaluate the inadequacies of this mitigation plan. Regional Board staff will also be meeting internally to discuss this and other violations at the facility.

21. Compliance Assurance Report, 2<sup>nd</sup> Quarter 2002 (July 1 – September 30, 2002) (Mark Alpert) (Attachment B-21 includes diskette)

Enclosed is the quarterly enforcement report, prepared in accordance with the State Board's Enforcement Policy. The report entitled **Violations by Type** provides the detailed list of all the violations and the enforcement actions associated with those violations during the reporting period using data from the SWIM (System for Water Information Management) Compliance Module database. The full 80-page report is provided on the enclosed diskette and can also be viewed at the Regional Board web site at <http://www.swrcb.ca.gov/rwqcb9/>. A summary of the **281** violations and associated enforcement actions identified during the reporting period is attached as well as a list describing the acronyms used for violations and enforcement actions.

Violation by Type Report includes: a) the date of violation; b) identification whether the violation is considered to be a priority violation; c) the RWQCB response, if any; and d) the corrective action taken by the discharger.

In addition to this quarterly compliance report, Regional Board staff initiated enforcement actions in response to violations that occurred in periods prior to the current reporting period. These enforcement actions are listed in the report entitled "Enforcement Actions by Action" and are also on the enclosed disk.

The recording of violations and enforcement actions from several Regional Board programs are not included in the SWIM database. Enforcement information for the following programs are stored in a new database referred to as Geotracker, which is also maintained by the State Board: Underground Tanks, Department of Defense, and SLIC (Spills, Leaks, Investigations, and Cleanup programs. In addition, there are water quality programs that have independent and unique databases that also record violations that are not routinely included in the SWIM database. These include the NOI database for Stormwater, delinquent annual fees database, and a new database to track sanitary sewage spills. While SWIM was intended to be the primary database for this agency, Geotracker

has emerged as the preferred database for some programs. Unfortunately, no decision has yet been made on which database format should be used for the future. More information on Geotracker is provided on the State Board web site at <http://geotracker.swrcb.ca.gov>.

In addition to the quarterly compliance report, Regional Board staff initiated formal enforcement action in response to significant violations that occurred in periods outside the current reporting period July 1, 2002 through Sept 30, 2002. These formal actions are listed below.

- **Effluent Limit violations:** Administrative Complaints for Assessment of Civil Liability containing Mandatory penalties for violations of effluent limits contained in NPDES permits. Mandatory penalties are established in Water Code Section 13385.

Facility Name	No. Of Violations	Violation Period	Minimum penalty
Kinder Morgan Energy Partners	7	March – June 02	\$21,000
City Of Coronado, Glorietta Bay	15	Jan – April 02	\$39,000
Tosco Marketing, 76 Service Station	6	March – April 02	\$18,000
America Plaza Owners association	7	Jan 00 – June 02	\$21,000
Fallbrook Treatment Plant	31	April 01- June 02	\$87,000

- **Failure to Pay Fees:** The Regional Board staff is escalating its enforcement efforts against dischargers failing to pay annual fees. California Water Code section 13260 requires that each person prescribed WDRs (including enrollees in a General WDRs and NPDES permits) shall pay an annual fee. Failure to pay the fee when requested is a priority violation and may be subject to an ACL imposed by the RWQCB or SWRCB of up to \$1,000 per day pursuant to California Water Code section 13261. The following Complaints for Assessment of Civil Liability for failure to pay annual fees have been issued after repeated notification to the dischargers of the unpaid fees.

Facility Name	Year Fee Due	Amount of Fee	Recommended Liability
Valley Center Inves. LLC	01	\$250	\$882
Lincoln Property Co	01	\$250	\$882
Richmond American homes	01	\$250	\$882
SWC 35 LLC	01	\$250	\$614
KB Home Coastal	01	\$250	\$614

- **Cleanup and Abatement Order R9-2002-330**  
Decommissioned Low-Level Radioactive Wastes:  
The CAO was issued pursuant to Governor's Executive Order (D-62-02) to implement a moratorium on the disposal of decommissioned low-level radioactive wastes at Class III and unclassified waste management units throughout the state. In San Diego this order is applicable to 18 facilities [see more detailed discussion elsewhere in EO report]

- Cleanup and Abatement Order R9-2002-312  
Metropolitan Transit Development Board:  
Issued for violations of 401 certification at a construction site in Sorrento valley.  
Construction work resulted in discharge of sediment-laden water to a stream, which is tributary to Penasquitos lagoon.

## 22. Total Maximum Daily Load (TMDL) Activities Update

### **Rainbow Creek Nutrients TMDL** (*Lisa Brown, Alan Monji*)

Preparation of responses to comments and revisions to the draft report is ongoing. Staff met with County staff on November 4, 2002 to discuss revisions to the implementation plan and monitoring strategy.

### *San Diego Bay TMDLs:*

### **Mouth of Chollas Creek and Seventh Street Channel TMDLs** (*Alan Monji, Tom Alo*)

Preliminary sediment investigations have been completed and a Toxicity Identification Evaluation (TIE) is being performed to identify the pollutants responsible for the toxicity. Preliminary TIE results are expected to be available by December 2002.

### **“B” Street/Broadway Piers, Downtown Anchorage, and Switzer Creek**

### **Contaminated Sediment TMDLs** (*Brennan Ott, Alan Monji*)

The Scope of Work for UC Davis Marine Pollution Studies Laboratory is complete and the contract has been submitted to the State Board for approval. Work is anticipated to begin in January 2003 with contract approval.

## **PART C**

### **STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION**

#### 1. Status of Petition for Review of the Regional Board's Approval of the Proposed Consent Decree in *State of California v. United States International Boundary and Water Commission* (*David Hanson*) (*Attachment C-1*)

On September 11, 2002 this Regional Board approved a proposed Consent Decree (CD) as part of litigation of *State of California v. United States International Boundary and Water Commission*, to provide secondary treatment for the South Bay International Wastewater Treatment Plant. On October 10, 2002, Bajagua Project LLC petitioned the State Water Board for review of the Regional Board's decision on the grounds that the proposed CD allows too much time for compliance and that the USIBWC's closing arguments were misleading and inaccurate. The Surfrider Foundation subsequently submitted a letter requesting interested party status in the matter. By letter addressed to Bajagua LLC and Surfrider Foundation dated October 28, 2002 (Attachment C-1), the State Board denied their request for review and suggested that the federal court proceeding was the proper venue for their concerns. Based on this decision, no further action is necessary on this matter by the Regional Board.

#### 2. Grant Project Selection (*Bruce Posthumus*) (*Attachment C-2*)

At its October 17 meeting, the SWRCB adopted ranked lists of project proposals for five grant programs for which San Diego region applicants are eligible. Funding for three of the grant programs - the Watershed Protection Program, Nonpoint Source Pollution Control Program, and Coastal Nonpoint Source Control Program – is provided by the state pursuant to the Costa-Machado Water Act of 2000 (Proposition 13). Funding for the other two programs – the Clean Water Act section 319(h) Nonpoint Source Implementation Program and the Clean Water Act section 205(j) Water Quality Planning Program – is provided by the federal government. Funding of projects on the 205(j) and 319(h) lists is subject to USEPA approval.

Attached **Table 1** identifies San Diego region Proposition 13 projects that will be funded and San Diego region 205(j) and 319(h) projects that will be funded pending USEPA approval. As Table 1 indicates, there are a total of fourteen San Diego region projects that will be funded (if USEPA approves the 205(j) and 319(h) projects). Those projects will take place in eight of the region's eleven hydrologic units and in all three of the region's counties. Attached **Table 2** summarizes the amount of grant funding available from each grant program and the total amount of funding from each grant program that will go to San Diego region projects (if USEPA approves the 205(j) and 319(h) projects).

### 3. California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 (Proposition 40) (*Bruce Posthumus*)

Proposition 40 was approved by the voters in the March 5, 2002 primary election. AB 2534 (Pavley) the Watershed, Clean Beaches, and Water Quality Act (see [http://www.leginfo.ca.gov/pub/bill/asm/ab\\_2501-2550/ab\\_2534\\_bill\\_20020920\\_chaptered.html](http://www.leginfo.ca.gov/pub/bill/asm/ab_2501-2550/ab_2534_bill_20020920_chaptered.html)), was approved by the Governor on September 20, 2002. AB 2534 provides for several programs of grants of Proposition 40 funds to public agencies and nonprofit organizations for projects designed to improve water quality at public beaches, improve water quality monitoring and sewer capability, protect water quality by reducing runoff pollution, and controlling nonpoint source water pollution. AB 2534 prescribes procedures for funding projects and appropriates specified amounts of Proposition 40 funds to the State Water Resources Control Board, the State Coastal Conservancy, and the Department of Forestry and Fire Protection for expenditure. AB 2534 also requires the California Environmental Protection Agency to enter into a memorandum of understanding (MOU) with the Resources Agency to ensure coordination with other programs administered by those agencies. The MOU must establish a stakeholder advisory process to assist in setting priorities and allocating funds and must be completed and executed on or before April 30, 2003.

The Proposition 40 grant programs to be administered by the SWRCB and the allocated funds are as follows:

Clean Beaches Program	\$46 million
Small Community Wastewater Grant Program	\$15 million
Urban Storm Water Grant Program	\$15 million
Nonpoint Source Pollution Control Program	\$20 million
Agricultural Water Quality Grant Program	\$12 million

Small Community Groundwater Grant Program	\$10 million
Integrated Watershed Management Program	\$57 million*

(\* \$7 million of this amount shall be used for the purposes of groundwater monitoring, collection, and analysis)

Staff expects that San Diego region applicants will be eligible for all of these grant programs. Details of the process(es) by which projects will be selected have yet to be worked out. Staff will provide updates in future Executive Officer's Reports as more information becomes available. Questions for staff about Proposition 40 grants should be directed to Bruce Posthumus, Bob Morris, or Stacey Baczkowski.

4. Moratorium on Disposal of Decommissioned Radioactive Material into Municipal Landfills (*John Odermatt*) (*Attachment C-4*)

On September 30, 2002, Governor Davis issued an Executive Order (D-62-02) requiring the State Water Resources Control Board (State Board) to prepare a model cleanup and abatement order imposing a moratorium on the disposal of "decommissioned materials" into Class III landfills and unclassified waste management units. Class III landfills and unclassified waste management units are described in California Code of Regulations Title 27, Sections 20260 and 20230. The Executive Order defines "decommissioned materials" as materials with low residual levels of radioactivity that, upon decommissioning of a licensed site, may presently be released with no restrictions upon their use. Executive Order D-62-02 further requires the State Board to transmit a model cleanup order to all Regional Water Quality Control Boards for their consideration in adopting similar requirements in each region of the State.

On October 2, 2002, the Regional Board received the initial copy of the model cleanup and abatement order from the State Board. On October 10, 2002, the Regional Board received the final revisions to the text of the model cleanup order from the State Board. On October 11, 2002, the Regional Board Executive Officer issued Cleanup and abatement Order R9-2002-330 to a total of 18 facilities, identified as either Class III and unclassified waste management units, located within the San Diego Region (Attachment C-4a). On that same day, the State Board's Executive Director issued a statewide memorandum addressed to "Radioactive Materials Licensees - Facility Owners and Operators" (Attachment C-4b). The moratorium established by CAO R9-2002-330 shall remain in effect until the Department of Health Services (DHS) completes its assessment of the public health and environmental safety risks associated with the disposal of decommissioned materials and its regulations setting dose standards for decommissioning to take effect.